

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

KEVIN JOHNSON, BRAD SMITH, and
TOMMY HIGGINS, individually and on
behalf of similarly situated individuals,
Plaintiffs

V.

HECKMANN WATER RESOURCES
(CVR), INC. and COMPLETE VACUUM
AND RENTAL LLP,
Defendants

S

CIVIL ACTION NO. 9:11-cv-170

MOTION FOR ATTORNEY'S FEES

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW CHARLES R. DENDY, Attorney for Brad Smith, and makes this motion
for award of attorney's fees, and for cause would show the court as follows:

On July 2, 2013, the court entered its order granting in part Smith's Motion for Partial Summary Judgment. As part of that judgment the court ordered that it would consider separately Smith's request for attorney's fees. Accordingly, Smith's counsel submits this motion for attorney's fees reasonably incurred by counsel in preparation of Smith's Motion for Partial Summary Judgment.

The FLSA requires an employer that violates the act to pay the employee's attorney fees. 29 U.S.C. § 216(b). The Fifth Circuit has approved trial courts' use of the lodestar method of calculating attorney's fees under the FLSA. The lodestar amount is calculated by multiplying the number of hours reasonably expended on the litigation by a reasonable hourly rate. *Singer v. City of Waco*, 324 F.3d 813, 823 (5th Cir. 2003), *cert. denied*, 540 U.S. 1177 (2004); *Johnson v. Georgia Hwy. Express, Inc.*, 488 F.2d 714, 717 (5th Cir. 1974).

Previously in this cause the court found that a reasonable attorney's fee was \$200 per hour. Furthermore, in its order granting in part Smith's Motion for Partial Summary Judgment the court directed that this application for attorney's fees be limited to the attorney's work on Smith's Motion for Partial Summary Judgment.

Accordingly, Smith's attorney requests \$2,750.00 for his representation in preparation of Smith's Motion for Partial Summary Judgment. That amount was determined by multiplying the total number of hours worked by the attorney on Smith's Motion for Partial Summary Judgment x \$200 per hour (13.75 hours x \$200.00 per hour = \$2,750.00).

The amount of time spent on the case was reasonable and necessary. See the Affidavit of Charles R. Dendy and itemized bill attached hereto.

Conclusion

Plaintiff's counsel respectfully requests that the court award attorney's fees in the amount of two thousand seven hundred fifty dollars.

Respectfully submitted,

CHARLES R. DENDY
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By: /s/Charles R. Dendy
Charles R. Dendy
State Bar No. 05737700
Attorney for Plaintiffs

CERTIFICATE OF CONFERENCE

Plaintiff's attorney has conferred with Defendants' attorney and Defendants do not agree with the granting of this motion.

/s/Charles R. Dendy
Charles R. Dendy

CERTIFICATE OF SERVICE

I certify that on this 17th day of July, 2013, the foregoing instrument was served through the District's e-filing system.

/s/Charles R. Dendy
Charles R. Dendy